

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00866R

Parcel No. 170/00444-004-000

Norman Vos,

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on August 24, 2016. Norman Vos was self-represented. Assistant Polk County Attorney Christina Gonzalez represented the Polk County Board of Review.

Norman Vos is the owner of a residential, one-story home located at 8089 NE 50th Avenue, Altoona. Built in 2013, it has 1928 square-feet of gross living area, and a full unfinished basement. It also has an oversized attached three-car garage, two open porches, and a 3240 square-foot metal utility building. The site is 1.061 acres. (Ex. A).

The property's January 1, 2015, assessment was \$345,700, allocated as \$54,800 to the land, and \$290,900 to the improvements. The property receives a geothermal credit that lowers the assessment \$10,300 to an adjusted total assessment of \$335,400.

Vos protested to the Board of Review claiming the property was not equitably assessed as compared to the assessments of other like property under Iowa Code section 441.37(1)(a)(1)(a). The Board of Review denied the petition. Vos then appealed to PAAB.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Conversely, sale prices of abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the factors that distort market value, including but not limited to foreclosure or other forced sales. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

A. Inequity Claim

i. Applicable Law

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993).

A taxpayer may also show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.” *Id.* at 711.

The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

The *Maxwell* equity analysis is done by comparing prior year sales (2014) to the current assessment (2015). Moreover, more than one comparable is necessary to prevail in an equity claim. *Montgomery Ward Dev. Corp. v. Cedar Rapids Bd. of Review*, 488 N.W.2d 436, 441 (Iowa 1992), *overruled on other grounds by Transform, Ltd. v. Assessor of Polk County*, 543 N.W.2d 614 (Iowa 1996).

ii. Findings of Fact

Vos submitted nine properties he considered comparable to his home. (Certified Record & Ex. 1). One property located at 8500 NE 50th Avenue has an agricultural

classification and for this reason, it is not reasonably comparable to the subject residential property.

The following table is a summary of Vos' remaining properties.

Address	Year Built	Gross Living Area (GLA)	Site Size (Acres)	Garage (SF)	Utility Building	2015 Assessed Value
Subject	2013	1928	1.061	1084 Att	3240	\$345,700
8333 NE 50th Ave	1978	2192	1.84	672 Att	None	\$240,000
8545 NE 50th Ave	1985	1320	12	576 Det	2800	\$275,000
8341 NE 50th Ave	1990	2162	1.72	516 Att	2520	\$287,200
8641 NE 50th Ave	1990	1692	10	528 Att	1920	\$297,700
8217 NE 50th Ave	2013	1548	1.25	624 Att	780	\$302,700
8226 NE 50th Ave	2006	1536	2.13	576 Det	1800	\$311,500
8632 NE 50th Ave	2005	1863	1.19	991 Att/1008 Det	None	\$287,500
690 NE 91st St	1999	3122	3.146	919 Att	3740	\$442,800

There are several notable differences between the subject and many of Vos' comparable properties. First, most of the properties are older than Vos'. Additionally, they have significantly different gross living areas (GLA); smaller garages; and either no utility buildings or smaller and older utility buildings. The property at 690 NE 91st Street has three utility buildings built between 2003 and 2014 totaling 3740 square feet of building area. (Ex. 1). Moreover, there is no indication in the record that any of the properties have recently sold, and Vos did not submit an opinion of the fair market value for any of them; therefore, an assessment/sales ratio could not be developed.

The Board of Review submitted two properties neighboring Vos', which are summarized in the following table.

Address	Year Built	Gross Living Area	Site Size (Acres)	Garage SF	Utility Building	2015 Assessed Value
Subject	2013	1928	1.061	1084 Att	3240	\$345,700
8067 NE 50th Ave	2013	2105	1.061	1463 Att	None	\$360,900
8029 NE 50th Ave	2012	1914	1.32	1200 Att	None	\$442,500

While these properties have more similarities in age, size, and garage, neither has a utility building. Both properties do have higher grades (quality), which would explain their higher assessments compared to the subject property. Like Vos'

comparable properties, there is no information in the record indicating these properties were recent sales and no market value of the properties was submitted.

Vos also questioned the increase in his lot value, which was \$39,800 in 2014 and \$54,800 for the 2015 assessment. Amy Rasmussen, Director of Litigation for the Polk County Assessor's Office, testified on behalf of the Board of Review and explained there are cost differences between an unimproved lot and an improved site. It appears Vos' lot had previously been valued as unimproved or partially improved.

iii. Analysis & Conclusion

Vos has not attempted to show the assessor is applying an assessment in a non-uniform manner. Further, while Vos submitted several nearby properties he believes supports his claim that his property is not equitably assessed, the subject property's superior features (age, size, garage, utility building, etc.) result in a higher assessment than those properties.

Moreover, we find there is insufficient evidence to complete the *Maxwell* analysis. There is no indication that any of Vos' selected comparables recently sold, and Vos did not submit a reliable estimate of their market value. Therefore, PAAB cannot develop an assessment/sales ratio for the properties.

For these reasons, we find Vos has failed to show the subject property is inequitably assessed.

Order

Having concluded that Vos has not shown his property is inequitably assessed, PAAB ORDERS that the Polk County Board of Review's action is affirmed.

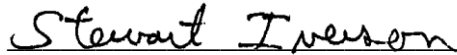
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court

where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 22nd day of September, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

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